



## Southern Towing Company

1874 Thomas Road  
Memphis, TN 38134

DEPT. OF TRANSPORTATION  
LOCKETS

2003 MAY 21 A 11:19

Please reply to:  
P.O. Box 411  
Memphis, TN 38101-0411

901-386-2644  
Fax 901-386-1119

May 13, 2003

Docket Management Facility (USCG-2001-8773) - 32  
U.S. Department of Transportation  
Room PL-401  
400 Seventh Street SW  
Washington, DC 20590-0001

Dear Sir:

Thank you for the opportunity to comment on this notice of proposed rule making. Southern Towing Company operates fourteen towboats, nineteen specialty chemical unmanned inland tank barges and thirty-six unmanned inland tank barges. The company's vessels operate on the Gulf IntraCoastal Waterways, lower and upper Mississippi River, Ohio River, Illinois River, Tennessee River, Arkansas River, Missouri River, Kanawha River, Sabine River, Calcasieu River and Monongahela River. We would like to make the following comments on the proposed rule:

### General comments:

1. Consideration should be given to other regulatory projects that the Coast Guard has developed. By itself, one regulatory project may not appear to be an overwhelming burden on industry, although this one has a first year cost of \$40 million and annual costs thereafter of \$18 million. The Coast Guard must consider other regulatory projects and understand the excessive burden being placed on the marine industry. We are attaching a spreadsheet summary of recent regulatory activity that clearly demonstrates a more than \$1.8 billion burden that the Coast Guard has placed on the marine industry. There comes a point when the Coast Guard has ceased to 'facilitate commerce'.
2. The background and purpose of the regulations states that *for the same reason that oceangoing vessels are required to carry alcohol breath-testing devices on*

*board at all times, all other commercial vessels should also carry testing devices onboard their vessels. The stated reason for oceangoing vessels to carry test equipment is the voyages of oceangoing vessels take the vessel and its crew far from shore-based facilities where alcohol testing can be conducted. This very line of thinking is justification for not requiring alcohol testing devices on inland river towing vessels. Inland river towing vessels are never far from shore-based facilities where alcohol testing can be conducted. Therefore, we strongly recommend that this testing equipment not be required for the inland river towing industry.*

3. The background and purpose of the regulation states *in some cases tests were not conducted and in other instances tests were not completed soon enough*. What type of cases were those? The SMI that likely occurred without a test being conducted is the 'damage to property in excess of \$100,000'. It is often unclear at the time of the accident if the amount of damage will exceed \$100,000. The proposed regulation uses the same language as the existing regulation to require a test; *When the marine employer determines that a casualty or incident is, or is likely to become, an SMI, the marine employer must ensure the following alcohol and drug testing is conducted...* The incidents that occurred where *tests were not conducted or not conducted soon enough* will likely not be changed by the proposed regulation. Therefore, we strongly recommend that this testing equipment not be required for the inland river towing industry.

4. The proposed regulation appears to require testing for the 'presence' of alcohol. How does this test relate to the regulations found in 33 CFR 95.020 which defines the standard for under the influence of alcohol as .04 percent by weight. Will a testing device that detects an alcohol concentration of .04 percent by weight or more in the blood satisfy the regulations, or does this proposed regulation in effect set a higher standard and require the marine industry to test for any level of alcohol?

5. The discussion of the proposed rule states that *for alcohol testing conducted aboard vessels, we would allow vessel owners and operators to choose any breath- or saliva-alcohol testing device that can determine the presence of alcohol in an individual's system*. There are products on the market that will test to the .04 percent level of alcohol, are DOT approved, have an indefinite shelf life and cost less than \$2 per unit. (One such product is the Breathscan Alcohol Detector, manufactured by Colonial Scientific.) Is this a product that will be allowed to be used to satisfy this proposed regulation? This would obviously reduce the estimated burden of \$40 million on the industry.

Specific Comments:

1. 46 CFR 4.06-3(a) states that alcohol testing is to be conducted within two hours following a SMI unless precluded by safety concerns. If alcohol testing is not conducted within 2 hours based on safety concerns, it must be conducted within 8 hours. If the results are apparently acceptable up to 8 hours following the SMI, why not require alcohol testing be conducted within 8 hours following the SMI?

Thank you for the opportunity to make these comments.

  
Michael Slack  
Safety/Training Manager

Encl.

## Cost of New Regulations

(Costs expressed in Millions unless otherwise noted)

5/13/03

Title	FR Date	Initial Cost to Industry	Annual Cost to Industry	Initial Cost to Government	Annual Cost to Government
<b>Completed Actions:</b>					
Chemical Testing	4/30/01		"no economic impact"		
Notification of Arrival in U.S. Ports	10/4/01	\$0.6	\$0.6		
Emergency Control Measures for Tank Barges	5/19/00	\$8.8	\$0.8	\$4.5k	\$4.5k
Fire Protection Measures for Towing Vessels	10/19/99	\$15.0	\$0.6		
Tank Level or Pressure Monitoring Devices	9/17/02	\$166.4 over a 5 year phase-in period			
<b>Completed Actions Sub-total</b>		<b>\$190.8</b>	<b>\$2.0</b>	<b>\$4.5k</b>	<b>\$4.5k</b>
<b>Proposed Rule Stage:</b>					
Salvage & Fire Fighting	5/10/02	\$156.2	\$30.9	\$0.4	\$0.4
Vessel & Facility Response Plans; Oil: '03 Requirements	10/11/02	\$33.0	\$18.5		
Post Casualty Drug and Alcohol Testing	2/28/03	\$40.0	\$18.0		
<b>Proposed Rule Stage Sub-total</b>		<b>\$229.2</b>	<b>\$67.4</b>	<b>\$0.4</b>	<b>\$0.4</b>
<b>Final Rule Stage:</b>					
Licensing & Manning of Towing Vessels	4/26/01	\$1.3	\$1.3	\$70k	\$70k
Fire Suppression & Voyage Planning	11/8/00	\$99.9	\$11.9		
Vessel Traffic Service Lower Mississippi River	4/26/00	"minimal"	"minimal"		
Notification of Arrival & Departure in U.S. Ports	2/28/03	\$6.7	\$6.7		
<b>Final Rule Stage Sub-total</b>		<b>\$107.9</b>	<b>\$19.9</b>	<b>\$70k</b>	<b>\$70k</b>
<b>Long Term Actions:</b>					
Tank Vessel Response Plan for Hazardous Substances	3/22/99	\$12.9	\$8.3		
Identification Credentials for Maritime Security		regulations are under consideration			
<b>Long Term Sub-total</b>		<b>\$12.9</b>	<b>\$8.3</b>		
Maritime Security	12/30/02	\$1.3 billion	\$785.0		
Vessel Security		\$188.0	\$144.0		
Facility Security		\$963.0	\$535.0		
Port Security		\$120.0	\$106.0		
<b>Total</b>		<b>\$1.840 billion</b>	<b>\$882.6</b>	<b>\$74.9k</b>	<b>\$74.9k</b>